

**REMARKS**

Claims 1-6 were pending in the present application. New claims 7 and 8 are added herein. Thus claims 1-8 are now pending. The applicants respectfully request reconsideration and allowance of the present application in view of the above amendments and the following remarks.

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving a copy of the form PTO-1449 submitted with the Information Disclosure Statement filed on March 23, 2004 on which the Examiner has initialed all listed items.

Claims 1-3 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Toshiyuki (JP 9184803) in view of Turcott U.S. Patent No. 6,491,639. The rejection is respectfully traversed.

Applicants note that the gas detection device of the present invention according to claim 1, as amended, and claims 2-6 and new claims 7 and 8 recites, inter alia, a shield plate (4) arranged between a light source and a light sensor element for partially sectioning the inner space of a package (9) that houses the light source (1) and the light sensor element (2). As a result of the presence of the shield (4), light beams emitted from the light source (1) is less likely to directly reach the light sensor element (2) while the light source (1) and the light sensor element are in the same atmosphere.

The Examiner admits that Toshiyuki fails to disclose or suggest a shield. To account for the deficiency in the applied art combination, shield (13) of Turcott is cited as allegedly amounting to the claimed shield. Applicants respectfully disagree.

Applicants first emphatically note that no evidence has been provided showing a suggestion or motivation contained in the references to support their combination. One of ordinary skill in the art would not look to Turcott to teach a solution to a problem which is not mentioned in Toshiyuki, e.g. Toshiyuki fails to mention a need for isolation between light source (4) and photodetector (5). Further, one of ordinary skill in the art would appreciate that isolation is not an issue with Toshiyuki since the light source (4) directs light to the reflecting mirror (2) which reflects the beam to photodetector (5) deliberately arranged in the focal position of the mirror. Conversely, Turcott describes the need for isolation in relation to the angle of the source (2) and the detector (4) toward each other. Thus, when the source (2) and detector (4) are not angled toward each other, a shield is not required (see, e.g. col 12, line 50-53). Toshiyuki does not describe that the light source (4) and the photodetector (5) are angled toward each other, and even assuming *arguendo*, that they were, the placement of the photodetector (5) in the focal position of the reflecting mirror (2), obviates the need for isolation.

Applicants further note however, that even if, *arguendo*, the references were properly combined, which applicants again strongly contend they are not, the applied art combination and Turcott in particular, fails to teach or suggest the claimed shield plate as arranged between the light source and the light sensor element such that an inner space of the package is *partially sectioned*, and the light source and the light sensor element are located on opposite sides of the shield plate. The shield of Turcott completely sections the space as clearly shown in Fig. 4b. Therefore, the applied art combination fails to teach or suggest all the claimed features as required.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that the applied art combination is improperly

motivated and still fails to teach or suggest all the claimed features as required. It is respectfully requested that the rejection of independent claim 1 be reconsidered and withdrawn.

Claims 2 and 3, by virtue of depending from independent claim 1, are allowable for at least the reasons set forth hereinabove. It is respectfully requested therefore that the rejection of claims 2 and 3 be reconsidered and withdrawn.

Claims 4-6 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Toshiyuki (JP 9184803) in view of Turcott U.S. Patent No. 6,491,639, and further in view of Weckstrom et al. U.S. Patent Application No. 2003/0177814. The rejection is respectfully traversed.

Claims 4-6, by virtue of depending from claim 1 are allowable for at least the reasons set forth hereinabove with regard to claim 1. In addition, claims 4-6 are independently allowable in that the applied art combination is improperly motivated for the following reasons.

Applicants again note that no evidence has been provided showing a suggestion or motivation contained in the references to support their combination. For example, for the reasons set forth hereinabove, the combination of Toshiyuki and Turcott is improperly motivated and thus the entire applied art combination including Weckstrom et al. is improper.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that the applied art combination is improperly motivated. It is respectfully requested that the rejection of independent claims 4-6 be reconsidered and withdrawn.

New claims 7 and 8, by virtue of depending from claim 1, are allowable for at least the reasons set forth hereinabove with regard to claim 1, and for reciting features such as that the shield plate extends from a top wall of the package partially toward a bottom of the package and that the single circuit chip, for example of claim 5, is fixed to a bottom of the package, and the

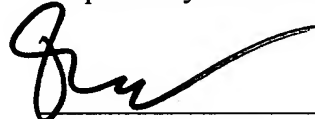
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shield plate extends from a top wall of the package toward the bottom with a space between an edge thereof and the single circuit chip. These features are not taught or suggested in the applied art combination for at least the reasons set forth hereinabove. Favorable consideration is respectfully requested.

In view of the foregoing, the applicants respectfully submit that the present application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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